

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAPHNYE S. LUSTER,
Petitioner,

v.

PEOPLE OF CALIFORNIA,
Respondent.

Case No. [19-cv-03509-YGR](#) (PR)

ORDER OF TRANSFER

Petitioner, a state prisoner, has filed a *pro se* petition for a writ of habeas corpus in which she challenges the execution of her sentence. Specifically, she is challenging the Madera County Superior Court's denial of her petition for a writ of habeas corpus upon finding that some evidence supported the prison official's decision finding her guilty of a rules violation.

A petition for a writ of habeas corpus filed by a state prisoner in a State that contains two or more federal judicial districts may be filed in either the district of confinement or the district of conviction. *See* 28 U.S.C. § 2241(d). The district court where the petition is filed, however, may transfer the petition to the other district in the furtherance of justice. *See id.* Federal courts in California traditionally have chosen to hear petitions challenging a conviction or sentence in the district of conviction. *See Dannenberg v. Ingle*, 831 F. Supp. 767, 767 (N.D. Cal. 1993); *Laue v. Nelson*, 279 F. Supp. 265, 266 (N.D. Cal. 1968). But if a habeas petition is directed to the manner in which a sentence is being executed, e.g., if it involves parole or time credit claims, the district of confinement is the preferable forum. *See* Habeas L.R. 2254-3(a); *Dunne v. Henman*, 875 F.2d 244, 249 (9th Cir. 1989).

Petitioner is incarcerated at the California Institution for Women, which lies within the venue of the Central District of California. *See* 28 U.S.C. § 84. Because Petitioner challenges the execution of her sentence, the Court hereby ORDERS that pursuant to 28 U.S.C. § 1404(a) and

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Habeas L.R. 2254-3(b), and in the interests of justice, this petition be TRANSFERRED to the Eastern Division of the United States District Court for the Central District of California.

If Plaintiff wishes to further pursue this action, she must complete the *in forma pauperis* application required by the Eastern Division of the United States District Court for the Central District of California and mail it to that district.

All remaining motions are TERMINATED on this Court’s docket as no longer pending in this district.

IT IS SO ORDERED.

Dated: July 22, 2019


YVONNE GONZALEZ ROGERS
United States District Judge